

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GREGORY O. FANN, JR.,

Plaintiff,

v.

BOBBY-JO SALAMON, *et al.*,

Defendants.

No. 4:23-CV-01787

(Chief Judge Brann)

ORDER

AND NOW, this 5th day of June 2024, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' motion (Doc. 16) to dismiss under Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**, as follows:
 - a. Plaintiff's Section 1983 Eighth Amendment conditions-of-confinement claim is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).
 - b. Plaintiff's Section 1983 Fourteenth Amendment procedural due process claim is **DISMISSED** with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).
 - c. Plaintiff's Section 1983 First Amendment retaliation claim is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).
2. Plaintiff's Section 1983 Fourteenth Amendment deprivation-of-property claim is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

3. Plaintiff's official capacity claims are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.
4. Within **21 days** of the date of this Order, Plaintiff, if desired, may file an amended complaint in accordance with the accompanying Memorandum. Plaintiff must adhere to the specific directions provided by the Court.
5. If no amended complaint is timely filed, dismissal of Plaintiff's Section 1983 claims without prejudice will automatically convert to dismissal with prejudice and the Court will close this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge